

CABINET

26 JULY 2022

GRANTING A NEW LEASE FOR THE SUNLIGHT CENTRE

Portfolio Holder: Councillor Adrian Gulvin, Portfolio Holder for Resources

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Summary

This report seeks delegated authority from Cabinet, so that officers can grant a lease or leases at the Sunlight Centre Richmond Road Gillingham to the Sunlight Development Trust.

1. Budget and policy framework

- 1.1 The unrestricted rental value of the Sunlight Centre has not been agreed yet, but will be over £20,000pa and the letting is likely to be granted at less than best consideration due to the nature of the use and the charitable status of the tenant, so this is a matter for Cabinet.

2. Background

- 2.1 The Sunlight Centre is currently occupied partly by the Medway Council Family Contact Centre (25.5%) and the larger remaining part (74.5%) as shown edged black on the attached plan at Appendix A of this report, by the Sunlight Development Trust (SDT) under a 20- year lease. The 20- year lease to the SDT expires on the 8 December 2022. The existing lease is outside the security of tenure provisions of the Landlord and Tenant Act 1954, which means that the tenant has no automatic right to renew it.
- 2.2 The decision to grant the original lease was made by the Community and Environmental Services Committee on 7 November 2000 (The Lease was granted to the Council for Voluntary Services (CVS) in December 2002 but has since been assigned to SDT.) So, there is no delegated authority in place to re-let the property and as a result, Cabinet approval will be needed to grant any lease.

- 2.3 Under the current lease, the SDT uses the property as a Healthy Living Centre and has dealt with the day to day running of its leased part of the building. It sublets and hires parts to appropriate organisations, which support healthy living, including a doctor's surgery, a pharmacy and various community groups.
- 2.4 The SDT has asked to be granted a new lease of at least 10 years at a rent, which is affordable for a Not-for-Profit charity.
- 2.5 As the exact terms of this request have yet to be agreed this report seeks delegated authority to the Director of Place and Deputy Chief Executive, in consultation with the Portfolio Holder for Resources, to grant a Lease of the Sunlight Centre to SDT on the best terms reasonably obtainable in the circumstances, taking into account the charitable status of the tenant and meeting the conditions required utilising the General Disposal Consent as set out in paragraph 5.2 below.

3. Benefits that The Sunlight Centre has delivered

- 3.1 The newly appointed Chief Executive Officer (CEO) of the SDT, has provided the following information and confirmed that The Sunlight Centre, in October 2022 will celebrate 22 years of working to improve the health and wellbeing of its community, and that the charity continues to be grateful for the support provided by Medway Council. Some of SDT's current and past work activities are set out below.
- 3.2 Health and Lifestyle team (HALT); Parentis – peer led parenting support - See [Parentis External Evaluation Report 2008](#); Alzheimer and Dementia Family Support; Alzheimer Advisor pilot.
- 3.3 Through the SDT hiring out space in the Sunlight Centre, the building is home to the Chinese Elderly Welfare Association, Medway African Caribbean Association, Bridge Baptist Church and the local One Stop Shop.
- 3.4 The SDT supports: Shout Out – self advocacy group for Adults with learning Disabilities (AWLD) and has set up and runs: A 50+ group, High Hope and Harmony Jam, which helps the area develop into a self-sustaining community groups.
- 3.5 The SDT further supports the Kent Community Foundation (KCF) – grants for delivering elderly and isolated services; has developed a dementia café and it has a volunteer led Community Café.
- 3.6 SDT also has Community Radio – offering opportunities to people who might normally not be able to access radio (ie AWLD, older people).
- 3.7 The SDT also supports KCF - Community composting for vulnerable adults; · Live well Kent Shaw Trust courses; Kent Bright Ideas/Porchlight grant – reducing mental health stigma; Suicide prevention innovation fund - Smart

skills – helping digitally marginalised people use digital media effectively and safely and the Otway Street Garden project.

- 3.8 The SDT has, via the Future Job fund, helped over 30 people back into employment; and currently via Kickstart it has 2 trainees; and 1 KCC apprenticeship.
- 3.9 The SDT has worked with Rochester Prison, young offenders offering work placements to prisoners due for release; provides access to free wi-fi and laptops in the café and has worked with Kent Police hosting Community & Diversity placements for trainee Police Officers.
- 3.10 Since October 2021, 3 local people with special educational needs have found employment as a result of SDT's cafe volunteer placement programme.
- 3.11 The SDT hosts the only GP and Pharmacy in the north of Gillingham, and they are expanding their work with Medway Medical Practice. The SDT is exploring the option of providing bespoke Social Prescribers with specialisms in identified need areas e.g. Mental Health, substance misuse and ASD workers.
- 3.12 SDT have recently agreed the use of The Sunlight Centre and garden spaces with the local schools, this is part of the strategy and value of it being a community asset.
- 3.13 In May 2022 SDT appointed a new CEO, whose vision is to transform SDT into a centre that delivers more services as identified by community members of all ages and aligns the Centre with the wider objectives of the local authority, the Clinical Commissioning Group (CCG) Public Health and most importantly the community itself. The CEO has recently taken ownership of a puppy Maggie, who is undertaking training to become a qualified well-being dog, which he hopes will assist many of the groups using the Sunlight Centre, including the adjoining Medway Council Children's Contact Centre.

4. Options

- 4.1 The Cabinet has the following options:
 - 4.1.1 The Council could run the Sunlight Centre itself or;
 - 4.1.2 Decide the Council should continue to let it to an organisation that can run it.

5. Advice and Analysis

- 5.1 The reletting of the Sunlight Centre, will secure the future of the facility, without the need for the Council to run the facility itself, avoiding additional staffing and running costs.
- 5.2 The Council has the power to dispose of property (including the granting of leases) under s123 of the Local Government Act 1972. However, the Council

has a duty to obtain best consideration, unless it is granting a lease not exceeding 7 years, the express consent of the Secretary of State is obtained, or one of the general consents relating to that Act applies. In this case, the Council could use the General Disposal Consent (England) 2003 provided that:

- It considers that the disposal/lease is likely to achieve the improvement or promotion of the economic, social or environmental well-being of all or part of Medway,
- The undervalue, does not exceed £2,000,000.
- The grant of the lease does not breach state aid rules/subsidy policies.

6. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Loss of Community Facilities at the Sunlight Centre.	The Community Facilities which occupy the premises, vacate.	Let the premises to a suitable charity, so that it can sublet to Community Groups, or the Council could manage the premises itself.	D3

7. Consultation

7.1 The relevant service departments and the Portfolio Holder for Resources have been consulted and have no objections.

8. Financial implications

8.1 The unrestricted rental value of the Sunlight Centre will be at least £20,000pa and leasing the premises will mean that the Council will not need to run the facility itself.

8.2 In the last few years, as a not for profit charity, The SDT has stated that, it cannot afford to pay the full market rent for the property.

8.3 Renewal of the lease will result in the Council continuing to generate a significant rental income from the property. As set out in paragraph 4.2 above, the Council has the power to let the property for less than best consideration, provided that certain conditions are met.

8.4 The lease of the property is a standard commercial lease, which allows the property to be used as a wellbeing centre only. Going forward the rent that SDT will be able to afford to pay for the property will be less than the

unrestricted rental value of the premises, however based on a 10 year lease the undervalue will be far less than £2m.

- 8.5 In addition to this, the undervalue, the proposed letting will not breach State Aid rules, as the de-minimus provisions currently allow the Council to provide assistance not exceeding 200,000 Euros (around £170,940 at current exchange rates), which over a rolling three-year period is equivalent to around £56,980 per annum. The SDT also receives 100% business rates relief (which for 2022/23 financial year is worth £35,328), comprising 80% charitable relief and the 20% discretionary grant for dealing with vulnerable people, but this is not classed as State Aid.
- 8.6 If the Council does not agree to let the property at undervalue to the SDT, then it is very likely that The SDT will move out of the premises, in which case, a valuable community facility will be lost. Also, it is likely that the property would remain partly vacant for a period of time, before it could be re-let. The Council would also have to manage other sub tenants, if they were to remain, for example the GP surgery. As a result, the Council would lose valuable rental income and would have to set aside additional revenue to manage and maintain the property whilst it is empty.

9. Legal Implications

- 9.1 The Council has a fiduciary duty and under Section 123 of the Local Government Act 1972, the Council is required to obtain best consideration when it disposes of or grants leases for over seven years of land and property, unless it using the general disposals consent 2003 and the undervalue is less than £2,000,000 and the disposal will help to secure the promotion or improvement of the economic or environmental well-being of the area, or a specific approval is obtained from the Secretary Of State.
- 9.2 The Council's ability to use the 2003 General Consent for a disposal at less than best consideration, is restricted by the European rules on State Aid. Whilst it is likely that the reduction from market rent for this property falls within the definition of State Aid, the amount fall well below the de-minimus threshold and therefore the Council is able to rely on the General Consent for Disposals.
- 9.3 It is therefore proposed that the Council grants the SDT a new lease and supplemental agreement containing a provision that all the time that the property is used as a wellbeing centre, that the rent will be reduced by an amount (to be agreed) permitted under the State Aid de minimus provisions (currently around £56,980 per annum, but the assistance given will be less than this). As a result, the delegation to the Director of Place and Deputy Chief Executive, in consultation with the Portfolio Holder for Resources is to be subject to any financial assistance not exceeding the State Aid de-minimus limits from time to time.

10. Recommendation

- 10.1 It is recommended that Cabinet agrees to delegate authority to the Director of Place and Deputy Chief Executive, in consultation with the Portfolio Holder for Resources, to grant a lease or leases to the Sunlight Development Trust (SDT) at the Sunlight Centre on the best terms reasonably obtainable in the circumstances.

11. Suggested reasons for decision

- 11.1 Letting of the Sunlight Centre to SDT will enable a valuable community facility to continue.

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Appendices

Appendix A: Plan of the Sunlight Centre site Richmond Road Gillingham edged black.

Background papers

None